

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA

-against-

No. 12 Cr. 661 (JG)

**ALI YASIN AHMED,
MAHDI HASHI,
MOHAMED YUSUF,**

Defendants.

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

VS.

Mahamud Said Omar,

Defendant.

File No. CR-09-242
(MJD/FLN)

Minneapolis, Minnesota
October 2, 2012

BEFORE THE HONORABLE MICHAEL J. DAVIS and a Jury
UNITED STATES DISTRICT COURT JUDGE

(TESTIMONY OF MATTHEW BRYDEN)

Proceedings recorded by mechanical stenography;
transcript produced by computer.

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1 return to Ethiopia or to seek resettlement in third
2 countries of asylum.

3 Q. And since then, Mr. Bryden, since your work as a refugee
4 officer in 1989, would it be accurate to say that you've
5 been continuously involved on a professional level with
6 issues concerning the Horn of Africa?

7 A. That's correct.

8 Q. And we'll go into a bit more detail, but first, what
9 exactly, sir, is the Horn of Africa?

10 A. The Horn of Africa is the northeastern part of the
11 continent. It's generally considered to include the
12 countries of Somalia, Ethiopia, Djibouti, Eritrea, and some
13 would say Sudan.

14 Q. Okay. Placing in front of you, Mr. Bryden, a document,
15 a single-page document marked for identification as
16 Government's Exhibit 1, does that show -- is that a map that
17 shows the Horn of Africa in the world?

18 A. Yes, it is.

19 Q. Is it accurate?

20 A. Yes, it is.

21 Q. Would it be helpful to you in explaining your testimony
22 to the jury?

23 A. Yes, it would be.

24 MR. DOCHERTY: Offer Government's 1, Your Honor.

25 MR. HOPEMAN: No objection.

1 provides what is known as open source intelligence, that is,
2 what is publicly known, not what is classified or
3 confidential.

4 And the work of open source analysts is to look at
5 what is available in the media, on the Internet, what is
6 known as gray literature which is published by organizations
7 or academics, and to sift through it to come up with
8 information that is usable for the intelligence community
9 and for the government at large.

10 Q. How long were you there?

11 A. I believe approximately two years.

12 Q. And what sorts of things did you -- you've described
13 what the Open Source Center does. What did you do there
14 during your two years?

15 A. I was an analyst, open source analyst, on Somalia and I
16 prepared and presented both reports and analysis on Somalia
17 for the U.S. Government.

18 Q. At the outset of your testimony you said that you had
19 originally worked for an NGO and it was under contract to
20 the United Nations. Recently have you had the opportunity
21 to work again for the United Nations?

22 A. Yes, I have.

23 Q. What did you do for the United Nations in your second
24 tour with them?

25 A. I was -- most recently I served as coordinator of the

1 United Nations Somalia-Eritrea Monitoring Group.

2 Q. Now, let's break that down. The United Nations Somalia
3 and Eritrea Monitoring Group, first of all, what's the group
4 monitoring?

5 A. The group monitors sanctions regimes on Somalia and
6 Eritrea. On Somalia the sanctions regime is quite
7 extensive. It includes an arms embargo on the importation
8 of weapons, equipment, ammunition to Somalia. It includes a
9 prohibition on all threats to peace and security in Somalia,
10 so any group or individual that threatens peace and security
11 and specifically any group that threatens the Transitional
12 Government, the African Union peace-keeping force on the
13 ground, or the political process by force. It includes
14 prohibition on the diversion of any humanitarian assistance,
15 on violations of international humanitarian law, and on
16 various forms of financing for al-Shabaab.

17 Q. This what you call a monitoring regime, where do
18 these -- sorry, a sanctions regime -- where do these
19 sanctions come from, who put them in place?

20 A. The sanctions are imposed by the United Nations Security
21 Council.

22 Q. And the Security Council is what within the United
23 Nations?

24 A. The Security Council is 15 member states, five permanent
25 members, the United States, Russia, China, the U.K., and

1 France, and ten rotating members.

2 Q. And they vote on these sanctions?

3 A. They vote on these sanctions. They are introduced by
4 consensus and they are what is known as Chapter VII, which
5 means that states are required to abide by them.

6 Q. So they're mandatory?

7 A. They're mandatory.

8 Q. Now, with the Somalia-Eritrea Monitoring Group, we have
9 talked about the sanctions regime that the group monitored.
10 What was your role with the Monitoring Group, what was your
11 position?

12 A. I had two functions with the Monitoring Group. I was
13 the coordinator and I was also the regional specialist.

14 Q. Regional specialist of what region?

15 A. For the Horn of Africa.

16 Q. How large a staff or how many other experts, would be a
17 better question, did the Monitoring Group have?

18 A. In 2008 when I began the work there was a team of four
19 because the mandate was only to monitor an arms embargo in
20 Somalia. By 2012 when I left we had a team of eight because
21 we had a much more extensive mandate, as I described, and
22 Eritrea had also been added to the mandate.

23 Q. And this team of four at the beginning or eight at the
24 end, what sorts of expertise did those people bring to the
25 table?

1 A. Most had investigative backgrounds. We had former
2 police officers and serving police officers, former
3 intelligence officers, investigative journalists, and
4 finance experts.

5 Q. And what was the end product of the Monitoring Group,
6 what was it supposed to do or what was its output supposed
7 to be?

8 A. The Monitoring Group reports to the Security Council on
9 a monthly basis with monthly updates. It provides a midterm
10 briefing every six months and at the end of each year, at
11 the end of each annual mandate, the Monitoring Group
12 presents a formal written report to the Security Council,
13 which is then published as a Security Council document.

14 Q. And to give a sense of scale, the most recent Monitoring
15 Group report came out in July of this year?

16 A. That's correct.

17 Q. And approximately how many single-spaced pages was that
18 report?

19 A. It was, in fact, two reports, one on Somalia and one on
20 Eritrea, and together they totaled close to 600 pages.

21 Q. And what sorts of things would we find if we were to sit
22 down and read those 600 pages, what sorts of things are in
23 that report?

24 A. Probably one-quarter would be, or less than a quarter,
25 would be reporting, a narrative on violations of the

1 sanctions regime of all kinds. And the remainder would be
2 presentation of evidence to support those alleged
3 violations, including everything from registration of
4 weapons that had been identified in Somalia, photographs of
5 equipment and weapons that had entered in violation of the
6 arms embargo, information provided by member states,
7 telephone records, financial records, anything required to
8 back up the findings of the report.

9 Q. And you were the coordinator of the group?

10 A. That's correct.

11 Q. What did you do between 2008 and 2012 as coordinator of
12 this Monitoring Group?

13 A. I would lead the efforts of the team. I contributed my
14 expertise as a regional expert to give context to their
15 work. But my principal purpose was to guide and then to
16 verify the efforts of the investigators and to ensure that
17 their work met the evidentiary standards required by the
18 Security Council.

19 Q. How did you and how did your staff go about getting the
20 information you needed in order to present evidence in these
21 big annual reports to the Security Council, what methods did
22 you use to get information?

23 A. We interviewed sources from within Somalia. Members of
24 the team would travel to Somalia and also, when possible, to
25 Eritrea. We interviewed people outside the country, Somali

1 A. Yes, it would.

2 MR. DOCHERTY: Your Honor, I will offer
3 Government's Exhibit Number 4.

4 MR. HOPEMAN: No objection.

5 THE COURT: Be admitted.

6 BY MR. DOCHERTY:

7 Q. Mr. Bryden, what I propose to do is for us to just walk
8 through recent Somali events using the timeline as a
9 framework.

10 During the time of European colonization of
11 Africa, was Somalia colonized?

12 A. Yes, it was.

13 Q. Who colonized Somalia?

14 A. The northern part was colonized by the British as
15 British Somaliland and the southern part by Italy.

16 Q. And when you talk about the northern part, we were
17 talking earlier about Hargeisa and Bosaso and Somaliland and
18 Puntland. How do those relate to the old British colonial
19 area?

20 A. What I referred to as Somaliland was the former British
21 Somali protectorate. Puntland came under Italian colonial
22 rule.

23 Q. When was it that Somalia achieved its independence from
24 Britain and from Italy?

25 A. In 1960.

1 Q. And immediately after independence was Somalia a
2 democracy?

3 A. Yes. Somalia was a democracy for the first nine years
4 of its independence.

5 Q. And on the timeline, the first entry, "United Republic
6 of Somalia formed as an independent nation from former
7 Italian and British colonies," and then the next one -- I
8 was going to ask: In 1969 did something happen to bring an
9 end to Somali democracy?

10 A. Yes, it did. In an unrelated incident the president was
11 assassinated and shortly thereafter the military stepped up
12 to take power.

13 Q. And when the military stepped up to take power in 1969,
14 who was it who eventually wound up in charge in Somalia?

15 A. It was a military general named Mohamed Siad Barre.

16 Q. Under Mohamed Siad Barre was Somalia still a democracy?

17 A. No, it was a military dictatorship.

18 Q. And without going into all of the events of that
19 dictatorship, did that eventually end?

20 A. Yes. It was brought down by a series of rebellions,
21 local rebellions across southern Somalia and northern
22 Somalia, and in 1991 Siad Barre was finally chased from
23 Mogadishu and the following year he was chased out of
24 Somalia.

25 Q. So in 1991 who was it -- when you say Siad Barre was

1 chased out of Mogadishu, who was doing the chasing, who
2 chased him out?

3 A. Directly the forces that unseated him in Mogadishu were
4 the forces of a militia known as the United Somali Congress
5 and its forces were headed by another general, Mohamed
6 Farrah Aidid, and it had other leaders, particularly Ali
7 Mahdi Mohamed who headed the movement, and who later
8 disputed amongst themselves as to who was in charge.

9 Q. So after the United Somali Congress had chased Siad
10 Barre out of Mogadishu, what happened to the United Somali
11 Congress?

12 A. It divided and went to war with itself.

13 Q. And since 1991, when Siad Barre was chased out of
14 Mogadishu, has Somalia from that day to this had a
15 functioning central government?

16 A. No.

17 Q. After the United Somali Congress divided and went to war
18 with itself, was there further fighting over and above that?

19 A. There has been a great deal of fighting in all parts of
20 Somalia since 1991 and since the civil strife within the
21 United Somali Congress.

22 Q. What effect did all of this fighting have on the food
23 supply in Somalia?

24 A. In the early 1990s the fighting, particularly in
25 southwest Somalia, led to a very serious famine and that was

1 compounded by drought. And although Somalia has witnessed
2 recent cycles of drought since then, I think it's fair to
3 say that the conflict has meant that the economy and the
4 food supply has never fully recovered to prewar levels.

5 Q. In 1992 were there and in the years following 1992 were
6 there efforts made by the international community to feed
7 Somalia?

8 A. Yes. In 1992 first the United Nations attempted to fly
9 food into the famine-affected zones. And when that didn't
10 seem to be working, the United Nations attempted to deploy
11 peacekeepers, a small peacekeeping force. That also didn't
12 seem to be effective and so the United States Government
13 decided to send over 30,000 soldiers to Somalia to
14 facilitate the relief efforts.

15 Q. Did that work?

16 A. It did alleviate the famine, yes.

17 Q. But in 1995 did something occur to bring the U.S. effort
18 to a stop?

19 A. Yes, it did. Once the famine had been largely
20 eliminated, the United States handed over leadership of the
21 force to the United Nations and the mission of the force
22 became assisting in the restoration of a functioning
23 government. That, of course, involved some very difficult
24 political dynamics.

25 And one of the principal militias in Mogadishu,

1 General Mohamed Farrah Aidid's militia, challenged the
2 United Nations, killed more than two dozen Pakistani
3 soldiers and then 18 American soldiers in the famous Black
4 Hawk Down incident and this led to the withdrawal first of
5 American forces and then of United Nations forces.

6 Q. And on the timeline, blowing up or expanding, you've
7 written, "1992 to '95 United Nations peacekeeping mission
8 fails." Is that what you have been testifying about for the
9 last few minutes?

10 A. That's correct.

11 Q. Since Black Hawk Down in 1995, have there been more
12 efforts to form a functioning central government in Somalia?

13 A. Yes, there have been several.

14 Q. Which two would you consider the most important?

15 A. I would say the most important were the Arta Conference,
16 which took place in neighboring Djibouti, which established
17 what was known as the Transitional National Government
18 between 2000 and 2004.

19 And that was superseded by a conference in Kenya,
20 first at the town of Eldoret and then at Mbagathi, and that
21 conference formed the Transitional Federal Government in
22 2004, which remained the nominal government of Somalia until
23 August this year when it was replaced by the Federal
24 Government of Somalia.

25 Q. Your testimony was that the Transitional National

1 Government was formed in Djibouti and the Transitional
2 Federal Government was formed in Kenya. Why did these
3 governments have to be formed outside Somalia itself?

4 A. Because the situation inside the country was considered
5 insecure and wouldn't have permitted a neutral meeting place
6 and a safe meeting place for delegates to come together and
7 form a government.

8 Q. Did the Transitional Federal Government eventually leave
9 Kenya and sit in Somalia itself?

10 A. In 2005.

11 Q. When it was in existence, was the Transitional Federal
12 Government recognized as the legitimate government of
13 Somalia?

14 A. It was recognized internationally as an interim
15 government and was permitted to take Somalia's seats in
16 international organizations, including the African Union and
17 the United Nations.

18 Q. And was the Transitional Federal Government recognized
19 by the United States of America?

20 A. As an interim authority, yes.

21 Q. So the Transitional Federal Government was meant to be
22 leading to something else, something better?

23 A. That's correct.

24 Q. I want to talk with you now, Mr. Bryden, about the
25 origins of an organization called the Islamic Courts and

1 supported the establishment of other Islamic courts
2 associated with other sub-clans in Mogadishu -- first there
3 were three, Ifka Halan, Circolo, and the Milk Factory or
4 what was known as Warshadda Aanaha -- and also an Islamic
5 court associated with Hassan Dahir's sub-clan in the port
6 town of Marka.

7 Q. So Mr. Aweys is an armed -- has an armed jihadi role,
8 correct?

9 A. Correct.

10 Q. And at the same time he's forming courts, correct?

11 A. That's correct.

12 Q. Okay. Were these courts popular with the population?

13 A. Yes, they started to gain some popularity because they
14 achieved a degree of local law and order in the
15 neighborhoods that they operated in in Mogadishu and in
16 Marka.

17 Q. And at some point this -- did al-Shabaab emerge from
18 these Islamic courts and armed jihadi combination?

19 A. Yes, it did. And as the courts grew, and ultimately
20 there were in the range of 11 or 12 principal courts in
21 Mogadishu, it was clear that three, later four of them were
22 associated with the most hard-line version of Islamic law
23 and had emerged as the core of a jihadist militia, which
24 became later al-Shabaab.

25 The most prominent of these was the militia headed

1 by the militia of Ifka Halan Court, which was headed by Aden
2 Hashi Ayrow, who went on to become for some time
3 al-Shabaab's most prominent military commander.

4 Q. All right. So Aden Hashi Ayrow had a militia and that
5 militia was the militia of Hassan Dahir Aweys' most
6 hard-line court; fair?

7 A. That's correct.

8 Q. Okay. Did these courts develop control, authority over
9 areas of Somalia?

10 A. They did. Notably in 2006, between mid 2006 and
11 December 2006, they controlled most of southern Somalia
12 south of the town of Gaalkacyo almost to the Kenyan border.

13 Q. At some point did the Ethiopians become concerned about
14 the growing authority of the Islamic Courts?

15 A. Yes, they did in late 2006 and this triggered a military
16 intervention.

17 Q. What was it about these courts that was worrying the
18 Ethiopians?

19 A. There were a number of issues that were of concern to
20 the Ethiopians.

21 One was that Hassan Dahir Aweys in particular had
22 declared that the Courts' jihad should extend into
23 Ethiopia -- into the Somali-inhabited parts of Ethiopia and
24 so threatened Ethiopian territory, integrity, and security.

25 Secondly, Ethiopia was already hostile to the

1 emergence of Islamist groups in Somalia and particularly the
2 jihadist strain represented by Hassan Dahir Aweys. I should
3 note that it was Ethiopia that had dismantled al-Ittihad
4 al-Islam in '96 and '97 because they considered it a threat.
5 The Islamic Courts were also hosting and supporting rebel
6 groups that operated across the border from Somalia into
7 Ethiopia.

8 And then lastly, the Islamic Courts accepted
9 support from and briefly hosted military assistance and
10 advisors from Eritrea, and at that time and up to the
11 present Ethiopia and Eritrea had a very hostile relationship
12 and they saw the presence of Eritreans among the Islamic
13 Courts as a kind of proxy front in their conflict with
14 Eritrea.

15 Q. So now in December of 2006 is the Transitional Federal
16 Government in power in Mogadishu?

17 A. The Transitional Federal Government in 2006 was in
18 Baidoa, it was not based in Mogadishu.

19 Q. But it was in Somalia?

20 A. That's correct.

21 Q. And at some point did the Transitional Federal
22 Government invite Ethiopian troops into Somalia?

23 A. Yes, it did.

24 Q. Can you tell us how that came about, please.

25 A. Almost immediately after the establishment of the

1 Transitional Federal Government, the first president of the
2 government, which was known as the TFG for short, Abdullahi
3 Yusuf Ahmed, traveled to Addis Ababa, where he called for
4 foreign military support to return his government from Kenya
5 to Somalia. This was a very divisive move, but it was one
6 that met with support from a number of governments.

7 In late 2006, as the Islamic Courts expanded their
8 control across southern Somalia, the regional organization
9 for the Horn of Africa, an intergovernmental organization
10 known as IGAD, the Intergovernmental Authority on
11 Development, approved a military mission to restore -- to
12 protect the government and to train its security forces.

13 And in late 2006, I forget which month, United
14 Nations Resolution I believe 1725 was passed by the Security
15 Council approving the deployment of an IGAD military force
16 in support of the TFG, to protect it and train its security
17 forces.

18 Q. Okay. And did the Ethiopian forces then enter Somalia?

19 A. They did in December 2006.

20 Q. And did they fight the Islamic Courts?

21 A. They did and they defeated them very quickly.

22 Q. After they defeated them, did they remain inside
23 Somalia?

24 A. Yes, they did, until 2009.

25 Q. Was that also at the invitation of the Transitional

1 Federal Government?

2 A. Yes, it was.

3 Q. Why did they stay after they had defeated the Islamic
4 Courts?

5 A. Because -- perhaps "defeat" was the wrong term. They
6 dismantled and dispersed the Courts' forces, but the Courts'
7 fighters, together with other militias who opposed
8 Ethiopia's intervention, almost immediately launched a
9 resistance, an armed resistance, to Ethiopian presence in
10 Somalia and so Ethiopia found itself fighting an insurgency
11 in order to try to maintain the TFG in power and in a sense
12 became bogged down in an increasingly violent insurgency.

13 Q. And how long did they stay?

14 A. Until I believe February 2009.

15 Q. And did al-Shabaab become active at this time?

16 A. Yes, it did.

17 Q. What were the political goals of al-Shabaab at this
18 time? Well, let me back up and ask a different question.

19 The Ethiopian invasion was received how in the Somali
20 diaspora or the entrance of Ethiopian troops into Somalia
21 was received how in the Somali diaspora?

22 A. Well, the diaspora was divided. There were supporters
23 of the Transitional Federal Government who believed that the
24 Ethiopian intervention was a good thing. In my assessment
25 that would have been a minority opinion.

1 Ethiopia has been perceived as hostile by many
2 Somalis for decades, if not longer, and so much of the
3 Somali diaspora was very angry and hostile to the Ethiopian
4 intervention and supported the resistance movement in
5 challenging Ethiopia.

6 Q. And were there -- was there one group in this resistance
7 movement or multiple groups in this resistance movement?

8 A. There were multiple groups.

9 Q. And now the question that I originally started off with.
10 Was al-Shabaab active in Somalia at this time, late '06
11 onwards?

12 A. Yes, it was. al-Shabaab had begun to emerge under the
13 name al-Shabaab and as an increasingly autonomous force
14 already before the Ethiopian intervention in 2006. When
15 Ethiopia intervened, the resistance took on the form of what
16 at the time I called a complex insurgency, where a
17 combination of clan based militias, various Islamist
18 militias, including those affiliated with the mainstream of
19 the Islamic Courts and al-Shabaab as the most militant
20 group, together opposed Ethiopian intervention.

21 Q. Now, you said that there were multiple groups involved
22 in -- that shared the goal of the Ethiopians leaving Somalia
23 and I would like to talk about al-Shabaab and what
24 distinguishes it from other groups, if I could, for a few
25 minutes.

1 soliciting support for the group.

2 Q. I have placed on the table in front of you a single
3 photograph marked as Government's Exhibit Number 10. Is
4 that a larger single-page version of letter I on
5 Government's 15?

6 A. Yes, it is.

7 MR. DOCHERTY: Move the admission of
8 Government's 10, Your Honor.

9 MR. HOPEMAN: I have no objection.

10 THE COURT: 10 will be admitted.

11 BY MR. DOCHERTY:

12 Q. Mr. Bryden, was al-Shabaab designated as a Foreign
13 Terrorist Organization by the Government of the United
14 States?

15 A. Yes, it was.

16 Q. And how did you hear about that designation?

17 A. The designation was officially issued and was something
18 that in my own work with the Monitoring Group we took note
19 of, although it didn't directly relate to our work. It was
20 also carried in the media and al-Shabaab reacted to the
21 designation publicly.

22 Q. How did al-Shabaab react to being designated?

23 A. The statement I recall the best was a statement by the
24 then spokesman Mukhtar Robow, who welcomed the designation
25 as a badge of honor.

1 Q. And was this designation also carried in the media in
2 East Africa?

3 A. Yes, it was, widely.

4 Q. And is that on the timeline at February 26, 2008?

5 A. Yes, it is.

6 Q. Going on with what it is that is distinctive about
7 al-Shabaab as compared to other groups that share the goal
8 of the Ethiopians leaving Somalia, did al-Shabaab use
9 assassination as a tactic in 2007 and 2008?

10 A. Yes, it did.

11 Q. What sorts of targets were there for al-Shabaab's
12 assassinations?

13 A. There were multiple targets. In addition to their
14 attacks on Ethiopian forces, they conducted attacks on
15 Transitional Federal Government officials, from the very
16 top, an attempt to assassinate -- several attempts to
17 assassinate the president and the prime minister, and also
18 moving down the scale to lower level officials, including at
19 one time the deputy mayor of Mogadishu, who was
20 assassinated, and what would be known as district
21 commissioners or local government officials and local
22 security officials in neighborhoods in Mogadishu. Anyone
23 whom they considered to be an official of or a collaborator,
24 in their terms, of the Transitional Government was a
25 potential target for assassination.

1 Q. So besides targeting Ethiopians, al-Shabaab also
2 targeted Somalis?

3 A. Yes. And I should add not just government officials.
4 They also targeted at times elders, civil society figures,
5 students. They didn't limit themselves to government
6 targets.

7 Q. Journalists?

8 A. Journalists, yes.

9 Q. Aide workers?

10 A. Yes, aide workers were their first target.

11 Q. Are you familiar with -- I'm going to use a term -- a
12 night letter?

13 A. Yes, I am.

14 Q. What's a night letter, Mr. Bryden?

15 A. Well, I believe the term was borrowed from Afghanistan,
16 where it was first used, and it was used in Somalia to
17 relate to leaflets, often photocopied leaflets, that were
18 distributed to government officials or individuals who were
19 accused of collaborating with the government.

20 And it would usually warn them to cease and
21 desist, stop what they were doing, or they risk the
22 consequences. The consequences could be explicit, you would
23 be killed, or it would simply say we will punish you.

24 And the same kind of tactic, the same messages
25 were also passed by mobile phones, not just in photocopied

1 pamphlets.

2 THE COURT: Let's stop here. We will take our
3 luncheon break. We will begin again at 1:45, 1:45. All
4 rise for the jury.

5 (Jury excused.)

6 **IN OPEN COURT**

7 **(JURY NOT PRESENT)**

8 THE COURT: Counsel, is there anything that we
9 need to discuss before we adjourn again?

10 MR. DOCHERTY: I don't believe so, Your Honor.
11 Thank you.

12 MR. HOPEMAN: No, Your Honor.

13 THE COURT: All right. Have a good lunch.

14 (Lunch recess taken at 12:29 p.m..)

15 * * * * *

16 (1:50 p.m.)

17 **IN OPEN COURT**

18 **(JURY PRESENT)**

19 THE COURT: You may continue.

20 BY MR. DOCHERTY:

21 Q. Good afternoon, Mr. Bryden.

22 A. Good afternoon.

23 Q. Before continuing I wanted to circle back and touch on a
24 couple of things left hanging from this morning.

25 First of all, when Ethiopian forces entered

1 Somalia, did the Islamic Courts Council issue any sort of
2 public statement or proclamation? Let me ask the question a
3 different way. I seem to have puzzled you. Did the Council
4 of Islamic Courts seek action from the Muslim community?

5 A. The Islamic Courts issued a statement denouncing the
6 intervention and calling for support, but essentially the
7 leadership dissolved several days later and so the statement
8 was, I think, not considered null and void, but there was
9 little opportunity to respond immediately.

10 Q. What did they call -- what sort of action did they call
11 for?

12 A. A jihad.

13 Q. And let's talk about that word for a moment. In your
14 time in the Horn of Africa, a largely Islamic population,
15 have you become familiar with jihad, the concept?

16 A. Yes, I have.

17 Q. And when the Council of Islamic Courts issues a call for
18 jihad, what are they calling for?

19 A. They were calling for a holy war to defend Muslim land
20 from an incursion by a foreign and non-Muslim power.

21 Q. And also before the noon break -- and I apologize if
22 this may be a little disjointed because these are sorts of
23 odds and ends -- you mentioned the words "Islamic caliphate"
24 and you mentioned that one of the things that al-Shabaab --
25 people within al-Shabaab sought was an Islamic caliphate.

1 Can you please explain what that term means.

2 A. An Islamic caliphate would be a form of government for
3 the lands inhabited by Muslims, by the ummah, the Muslim
4 community. The distinction here is between what the Courts
5 called for, which would have been considered a defensive
6 jihad, a legitimate defense of a Muslim land against a
7 foreign occupier and not a Muslim occupier, and the call to
8 establish the caliphate would go beyond the borders of
9 Somalia to any land inhabited by Muslims.

10 Q. And what is a caliphate, what does that word mean?

11 A. It's a reference to a historical Muslim concept, a
12 territory headed by a caliph who is a successor of the
13 tradition of the Prophet, a leader of the Muslim faith.

14 Q. And so the restoration -- I mean, many of these
15 countries already have Islamic governments; is that correct?

16 A. Many Muslim countries, territories do have Muslim
17 governments or Islamic governments, yes.

18 Q. What would be different if there was a caliphate as
19 opposed to what there is now?

20 A. Well, the caliphate as expressed by al-Shabaab and some
21 other internationalist jihadist movements is a projection of
22 their own form of Islamic government. It means that they
23 don't recognize the governments in those Muslim lands as
24 being legitimate Muslim governments, including those
25 governments in Somalia.

1 Q. Now, before the lunch break you had talked about this
2 concept of takfirism, the authority to designate Muslims as
3 really non-Muslims.

4 When you say that al-Shabaab does not recognize
5 the governments of these other Islamic countries as truly
6 Islamic, does that tie together with takfirism?

7 A. Yes, it does. The two are closely related.

8 Historically every Somali government prewar and
9 most of the Somali authorities since the collapse of the
10 Barre regime have considered themselves to be legitimate
11 Muslim or Islamic governments. That is to say that they
12 consider Islam to be the religion of the state, the
13 constitutions expressly -- since 1960 have expressly
14 considered Islam to be the state religion to ensure that
15 every law that is passed is consistent with Islamic law,
16 with Sharia law, and that any law that contradicts Sharia
17 law is null and void.

18 And so in a sense every authority, including the
19 Transitional Federal Government, the Transitional National
20 Government before it, the administrations in Somaliland,
21 Puntland, and other local administrations in Somalia, if
22 they have charters or constitutions, I think without
23 exception include this language and so would characterize
24 themselves as Islamic governments.

25 For al-Shabaab that was not sufficient. They have

1 their own version and in a sense they would be
2 delegitimizing these other authorities in saying they're not
3 Islamic because they don't correspond to al-Shabaab's world
4 view.

5 Q. What consequences would that have as far as making licit
6 the use of violence against those governments?

7 A. It would legitimize the use of violence to overthrow an
8 unjust government or a government that called itself Muslim
9 but was not, in fact, Muslim -- there's a specific term that
10 they used for that -- or a government they would consider
11 apostate.

12 Q. In September of 2006 -- last topic before we resume --
13 were there peace talks between the Council of Islamic Courts
14 and the Transitional Federal Government?

15 A. Yes, there were.

16 Q. Where were they held?

17 A. They were held in Khartoum, the capitol of then Sudan.

18 Q. And when were they held?

19 A. They were held in late 2006. I believe the month was
20 September. I could be mistaken. And they appeared to be
21 moving towards some kind of accommodation between the TFG
22 and the Islamic Courts.

23 Q. And on your timeline I have blown up and put on the
24 screen, "September 2006 the CIC" -- that's Council of
25 Islamic Courts?

1 A. That's correct, yes.

2 Q. -- "and the TFG" --

3 A. Yes.

4 Q. -- "begin peace talks in Khartoum"?

5 A. Yes.

6 Q. And you say that those looked like they were going well?

7 A. They had started on a positive note. It would have been
8 impossible to say where they would have gone, but they
9 weren't given the opportunity to go to fruition.

10 Q. Did al-Shabaab participate in those talks?

11 A. No.

12 Q. What was al-Shabaab's publicly-expressed attitude
13 towards those talks?

14 A. al-Shabaab opposed those talks.

15 Q. Okay. And why was that?

16 A. al-Shabaab considered the TFG to be collaborators or
17 what they termed puppets of the Ethiopian government and
18 that any authority or individual who cooperated with the
19 Ethiopians was a collaborator and, according to some Shabaab
20 leaders, by definition an apostate and apostasy is
21 punishable by death, so legitimizing violence.

22 Q. Mr. Bryden, I am now going to resume where we were
23 before the noontime break. We had talked about these night
24 letters, and the next technique that I wanted to cover with
25 you was improvised explosive devices or IEDs. Do you know

1 what I am referring to when I use those terms?

2 A. Yes, I do.

3 Q. Can you explain to the jury what you mean by an IED.

4 A. An IED is any explosive device that is, for want of a
5 better term, homemade, it's improvised. There are multiple
6 forms of IEDs that have been used in Somalia and elsewhere
7 and they range from everything from remote-controlled
8 devices to victim-detonated devices, car bombs, suicide
9 bombs, a range of essentially homemade explosives.

10 Q. In your experience working in the region and
11 particularly working in Somalia, what targets were there for
12 al-Shabaab IEDs?

13 A. al-Shabaab has targeted a wide range of objectives with
14 IEDs, from the leaders of the Transitional Federal
15 Government, the president and prime minister and other
16 senior officials. They have used IEDs against military
17 targets as well, against the Ethiopian forces when they were
18 in Somalia; against the peacekeeping forces of the African
19 Union; against low-level TFG officials; against civilian
20 targets, including students and members of parliament. And
21 at times IEDs have detonated perhaps accidentally, but
22 killing people for whom there seem to be no real motivation
23 or purpose for killing.

24 Q. In 2007 and 2008 did al-Shabaab use suicide bombs as a
25 tactic?

1 A. Yes, they did.

2 Q. When was the first suicide bombing attributable to
3 al-Shabaab?

4 A. 2006.

5 Q. And who was the target of that suicide attack?

6 A. The president of the Transitional Federal Government,
7 [indiscernible] Ahmed.

8 COURT REPORTER: Could you say the name again
9 slower.

10 THE WITNESS: Abdullahi Yusuf Ahmed.

11 BY MR. DOCHERTY:

12 Q. What evidence do you use when you attribute this 2006
13 suicide bombing to al-Shabaab?

14 A. There are a number of considerations. First of all, no
15 other group in Somalia has used or claimed responsibility
16 for suicide bombs. Shabaab is known to have used suicide
17 bombs.

18 That particular bombing, the individual who
19 perpetrated it, who missed his target, did not kill the
20 president, but did kill his brother, was rapidly identified
21 and initially associated by sources, that I spoke to at the
22 time, with al-Shabaab. al-Shabaab then subsequently used
23 video footage of the bomber in its propaganda, a subsequent
24 propaganda video, identifying him by name. And so the
25 association was made with al-Shabaab I think quite

1 logically.

2 Q. All right. And the target of this was President -- the
3 then President Abdullahi Yusuf Ahmed. Was he an Ethiopian?

4 A. No.

5 Q. What was he?

6 A. He was a Somali.

7 Q. Since that -- and that 2006 suicide bomb attack, did
8 that come -- where did that come in relation to Ethiopian
9 troops entering Somalia?

10 A. That was before the main offensive, but there were
11 Ethiopian troops present in Baidoa protecting the
12 Transitional Federal Government at the time.

13 Q. But the one you were talking about before the noon break
14 where the Ethiopian troops came in in December and routed
15 the Courts in a few days, that had not happened?

16 A. That had not yet happened.

17 Q. Have there been other suicide bombings perpetrated by
18 al-Shabaab since this 2006 attempt on President Yusuf?

19 A. Yes, there have been many.

20 Q. I want to talk with you about a few of those. Was there
21 an attack in April of 2007 at a hotel south of Mogadishu?

22 A. In the southern part of Mogadishu, yes, there was.

23 Q. And what was the target there?

24 A. That was -- I believe you are referring to the
25 Ambassador Hotel and it was a hotel that was frequented by

1 Transitional Federal Government officials. Mainly members
2 of parliament were staying there at the time.

3 Q. Was there an attack in April of 2008 against some
4 Burundian soldiers?

5 A. Yes, there was.

6 Q. Can you tell us about what happened at this attack on
7 the Burundian soldiers.

8 A. To the best of my recollection, the Burundian detachment
9 had a separate camp from the main African Union force
10 headquarters. They had recently deployed. They were
11 staying at a location known as the Jaalle Siyaad Academy.
12 It was a former military academy.

13 On that occasion a bomber drove at high speed to
14 the gate of the academy in a pickup truck loaded with
15 explosives and detonated at the control point. I don't
16 remember the exact figures. I think one AU soldier was
17 killed and a number of civilians, plus a number of wounded.

18 Q. Okay. You mentioned a pickup truck. What kind of
19 pickup truck was it, if you remember?

20 A. I don't recall, but it was a pickup truck, which I think
21 is perhaps the only time I've heard of al-Shabaab using a
22 pickup truck for that kind of bombing.

23 Q. And what evidence is there that al-Shabaab was behind
24 this suicide bomb attack in April of '08?

25 A. There again, the bomber was identified and in two

1 thousand and -- well, immediately al-Shabaab published a
2 statement taking responsibility for the bombing, several
3 statements, in fact, the day of the attack and I believe the
4 day after.

5 Q. All right.

6 A. They identified the bomber by name. And several years
7 later, in 2010, they published the video testimony of the
8 bomber prior to the attack.

9 Q. You said that there had been several statements issued
10 by al-Shabaab. Does al-Shabaab have a media wing?

11 A. al-Shabaab does have a media wing. It calls itself
12 al-Kataib, which means the brigades, and they have
13 disseminated their information, their communiqués through
14 various media. They have spokesmen as well, first, as I
15 mentioned, Mukhtar Robow and subsequently Ali Mohamud Raghe
16 a/k/a Ali Dhere. Others have also spoken on behalf of the
17 movement.

18 These communiqués or these statements are
19 published through their websites and they have a number of
20 websites, but these have changed over time. And they are
21 also disseminated at times through jihadist media that are
22 associated not just with al-Shabaab, but with other foreign
23 jihadist groups.

24 Q. What do you mean by that? Is that a website shared in
25 common or --

1 A. Yes, there were clashes.

2 Q. So that's not on your chart?

3 A. No.

4 Q. There's been more violence than you show, is my point,
5 between Ethiopia and Somalia, right?

6 A. Yes.

7 Q. And then there was another war, the Ethiopia-Somali War,
8 from 1977 to 1978, right?

9 A. Yes, the Ogaden War.

10 Q. And the Somali military in '77 and '78 was badly
11 defeated by the Ethiopians, true?

12 A. True.

13 Q. And that was a source of humiliation for many Somalis?

14 A. Yes, it was.

15 Q. And, in fact, the conflict between the two peoples goes
16 back centuries? Before you even start talking about the
17 formation of countries, there was conflict between ethnic
18 groups that you would now say are Somali and Ethiopian,
19 right?

20 A. Roughly speaking, yes.

21 Q. Now I would like to talk to you about the Transitional
22 Federal Government that was formed in 2004. You've heard
23 the expression and I think you have written about it, that
24 bad government is better than no government. You have
25 written that, right?

1 A. Actually I don't think --

2 Q. Actually it's the reverse, right?

3 A. I've said that at times Somalis would have preferred no
4 government to bad government, yes.

5 Q. That's right. That the government was so bad, that it
6 was worse than no government at all, right?

7 A. Yes.

8 Q. And it was not a government elected by the Somali
9 people, right?

10 A. No. It was a government formed in exile at a
11 conference.

12 Q. And in the eyes of many, many, many Somalis, it just had
13 no legitimacy to begin with, right?

14 A. Correct.

15 Q. Now, there's a history in Somalia of the state being
16 predatory towards its citizens, true?

17 A. Yes.

18 Q. And this Transitional Federal Government was no
19 exception, right?

20 A. Correct.

21 Q. It was predatory toward its own citizens, right?

22 A. Yes.

23 Q. Meaning it took advantage of them every way it could?

24 A. It didn't have the authority or the outreach to exploit
25 most of its own citizens. It was mainly exploiting

1 international assistance.

2 Q. So it stole the international assistance, right, and
3 appropriated it to itself?

4 A. For its own purposes, yes.

5 Q. And it also stole what tax money it could generate and
6 appropriated it to itself?

7 A. Yes.

8 Q. And it basically failed to meet the most basic needs of
9 the citizens of Somalia?

10 A. True.

11 Q. Do you know if it used torture to oppress the people?

12 A. There are very credible cases of the use of torture by
13 some of its agents, yes.

14 Q. Against the Somali people?

15 A. Against some of the Somali people, yes.

16 Q. During the years 2004 to 2008?

17 A. Principally in the years 2007, 2008.

18 Q. Physical torture?

19 A. Yes.

20 Q. For the purpose of bending people to their will?

21 A. For the purposes of either extracting information or
22 payment.

23 Q. And that Transitional Federal Government always refused
24 to engage in any kind of power sharing with any other groups
25 in that society, didn't it?

1 A. Until late 2008 when the prime minister was changed and
2 then they engaged in a process of dialogue. And in 2006, my
3 apologies, in 2006, as we noted, they engaged with the
4 Council of Islamic Courts in Khartoum.

5 Q. They never ended up sharing power, did they?

6 A. No, they didn't. Well, they did in late 2008 and then
7 ceded power at the beginning of 2009.

8 Q. Now, did the Ethiopian troops invade Somalia -- I think
9 they came in late in '06, you said, to protect the
10 government in Mogadishu, right, or was it Baidoa?

11 A. No, they came in early it would have been in 2005, 2006
12 in small numbers to protect the government in Baidoa,
13 because it wasn't in Mogadishu, and then in late 2006 they
14 launched the main offensive all the way to Mogadishu.

15 Q. Late 2006?

16 A. December.

17 Q. And, again, those troops were invited in by this corrupt
18 Transitional Federal Government?

19 A. They were.

20 Q. Which at the time was not even safe in its own country,
21 right?

22 A. Correct.

23 Q. And so it asked Ethiopia to invade and help take out the
24 competition, right?

25 A. That's fair enough.

1 Q. And the United States Government objected to the
2 invasion of Somalia by the Ethiopian troops, didn't it?

3 A. I don't believe so. I believe the United States
4 Government or at least the State Department indicated its
5 approval of the intervention.

6 Q. Maybe I misunderstood something you wrote, then. You
7 wrote a long paper in October of 2007 prepared for the
8 USAID. Do you remember that?

9 A. Yes, I do.

10 Q. Maybe I am misunderstanding, but let me just show you
11 page 53.

12 A. Yes.

13 Q. Yes, the United States Government did object to the
14 Ethiopians invading Somalia, right?

15 A. Parts of the U.S. Government did object and, as I have
16 written elsewhere, parts of the United States Government
17 approved.

18 Q. In any event, the Ethiopians went in and had their own
19 reasons for it, right?

20 A. They certainly did.

21 Q. And you talked about it earlier and those reasons had to
22 do with their own self interests, true?

23 A. In large part, yes. Also because there was, in fact, an
24 assault. There were assaults on Ethiopian and TFG positions
25 around Baidoa, which were the immediate trigger for the

1 Ethiopian intervention.

2 Q. The Horn of Africa is one of the poorest regions in the
3 world, right?

4 A. Correct.

5 Q. And it's also one of the most conflict prone?

6 A. Yes, it is.

7 Q. And by "conflict prone" we mean violence and war, right?

8 A. Yes.

9 Q. And as a result of all the conflict there, these nations
10 have a very low rate of economic development, right?

11 A. True.

12 Q. In fact, none of them in 2007 was ranked higher than
13 148th among the countries in the world, true?

14 A. I don't recall, but I believe that sounds about right.

15 Q. I think it's in your report.

16 A. I can't remember everything I have written over the
17 years --

18 Q. I know.

19 A. -- I'm afraid, sir.

20 Q. Nor can I, but I think it's in your report, isn't it?

21 A. It may well be.

22 Q. And Somalia, being part of the Horn, is also one of the
23 most conflict-prone regions of the world, true?

24 A. That's true.

25 Q. I was interested to hear you talk about an arms embargo

1 that you were trying to enforce. You were kind of standing
2 there like the little Dutch boy with your finger in the
3 dike, right?

4 A. No, our job was not to enforce the embargo.

5 Q. Anyone who wanted to enforce the embargo would have been
6 standing there with their finger in the hole in the dike,
7 right, trying to stop the overflow?

8 A. Well, actually no. That's the case, was that the arms
9 embargo wasn't respected by anybody, but the responsibility
10 for enforcement lay with member states and if the member
11 states in the region had enforced the embargo, they could
12 have been effective. Our job was to call them out and
13 report to the Council that they were not honoring their
14 responsibilities.

15 Q. And there were violations of the arms embargo by this
16 very Transitional Federal Government that we've been talking
17 about, right?

18 A. That's partly true. The government itself didn't often
19 import weapons for itself. It was more that others
20 contributed weapons and it's the donors who are violating
21 the embargo. But, yes, was the government party to
22 violations, I would say so.

23 Q. It was turning a blind eye to people that got guns that
24 it saw as its friends?

25 A. More than a blind eye. It was soliciting weapons and

1 ammunition.

2 Q. And then getting them into the hands of people who were
3 friendly to the government?

4 A. And getting them into the hands of people who were
5 opposed to the government. There was massive corruption in
6 which local commanders were just selling weapons into the
7 markets, which we documented in detail.

8 Q. Oh. So this government was profiting off the arms trade
9 itself?

10 A. Yes, it was, or parts of it were.

11 Q. In any event, there was easy availability of weapons in
12 Somalia in 2007, right?

13 A. Absolutely.

14 Q. AK-47s were readily available, right?

15 A. Yes, they always have been.

16 Q. How about automatic weapons?

17 A. The AK-47 is an automatic weapon, but also heavier
18 weapons were available and different types of assault
19 weapons, like machine guns, medium machine guns, all
20 available.

21 Q. Rocket-propelled grenades, all available?

22 A. Readily available.

23 Q. And the irony is we call them small arms, right?

24 A. Small arms and [inaudible], yes.

25 COURT REPORTER: I'm sorry. Small arms and?

1 A. True.

2 Q. And some went to resistance against the Traditional --
3 the Transitional Federal Government, right?

4 A. Yes.

5 Q. Now, in the fall of '07 there was a series of
6 conferences among Somalis in the United States and elsewhere
7 to try to organize opposition to the government and the
8 Ethiopian troops, correct?

9 A. Yes, I'm aware of that.

10 Q. And they attracted a lot of Somalis who weren't military
11 people, they weren't jihadists, they were just members of
12 Somali's civil society, right?

13 A. That's true.

14 Q. Former political figures, right?

15 A. Yes.

16 Q. Former members of the Council of Islamic Courts, right?

17 A. Yes.

18 Q. Former members of the Transitional Federal Government
19 itself, right?

20 A. Quite possibly.

21 Q. Former members of parliament?

22 A. Yes.

23 Q. And a lot of political activists, right?

24 A. True.

25 Q. So there's this huge group of legitimate Somali people

1 who want to get rid of the Transitional Federal Government?

2 A. That's right.

3 Q. And the result is there's clan resistance to the
4 government and there's nationalistic resistance to the
5 government and both of them take the form of fighters on the
6 ground at some point, right?

7 A. That's right.

8 Q. Now, Mr. Docherty asked you toward the end of your
9 direct examination, I think, which forces were fighting on
10 the ground against the government in Somalia in 2007, 2008
11 and I don't think you specified them. Can you tell us who
12 they were, first among the clans.

13 A. Well, as I said and you've rightly said, there were
14 three main parts to the resistance or three main
15 motivations. There was the nationalist sentiment, there was
16 clan sentiment, and there was the Islamist and jihadist
17 sentiment.

18 The forces on the ground in 2007 and '08 began as
19 a kind of, at least from the outside, an amorphous
20 opposition that was called the resistance or the Muqawama
21 and within it it wasn't clear who was there. All of these
22 elements were part of it.

23 During the course of 2007 the Muqawama started to
24 percolate into different parts. There were the Shabaab, who
25 very clearly emerged as one actor. There were forces loyal

1 that may be supportive of that letter.

2 MR. DOCHERTY: Yes. And I'll just --

3 THE COURT: So we don't have to --

4 MR. DOCHERTY: But the witness is on the stand
5 and --

6 THE COURT: I understand that. You may talk to
7 him on that point. Make sure he understands the parameters
8 of what he should be looking for. Don't do it narrow so
9 then we have to be jockeying back and forth all day
10 tomorrow.

11 MR. DOCHERTY: No.

12 THE COURT: I don't want that.

13 MR. DOCHERTY: Okay.

14 THE COURT: Okay. Have a good evening.

15 (Court adjourned at 4:38 p.m.)

16 * * *

17

18

19 I, Lori A. Simpson, certify that the foregoing is a
20 correct transcript from the record of proceedings in the
21 above-entitled matter.

22

23 Certified by: s/ Lori A. Simpson

24 Lori A. Simpson, RMR-CRR

25

LORI A. SIMPSON, RMR-CRR
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TABLE A-1 - Comparabe Materials Support Sentences in the Second Circuit

#	Year	Last Name	First Name(s)	Outcome	Convictions	Alleged Affiliation	Sentence	Max	Court	Judge	Allegations
1	2015	Hanafi	Wesam	Pleaded guilty	18 U.S.C. 2339B, 18 U.S.C. 371	al Qaeda	180	240	S.D.N.Y., 12 Cr. 162 (KMW)	Kimba M. Wood	See above
2	2014	Viglakis	Ioannis	Pleaded guilty	18 U.S.C. 2339B	FARC	120	180	S.D.N.Y., 12 Cr. 585 (KBF)	Katherine B. Forrest	The defendant allegedly offered to provide large quantities of lethal, military grade weapons to a DEA confidential source, who purported to represent the FARC. He then allegedly arranged for the successful delivery of three rocket-propelled grenade launchers ("RPGS") with six RPG grenades, to an undercover law enforcement agent in Athens, Greece, and later gave thousands of euros to the DEA source as a partial payment to the FARC to transport a multi-kilogram shipment of cocaine to Spain on his behalf.
3	2013	Ahmed	Mohamed Ibrahim	Pleaded guilty	18 U.S.C. 371 (two co	al-Shabaab	111	120	S.D.N.Y. 10 Cr. 131 (PKC)	P. Kevin Castel	The defendant allegedly traveled from Sweden to Somalia to receive "jihad" training in weapons and explosives at an al Shabaab training camp, provided a total of 3,000 Euros to al Shabaab, purchased an AK-47 that he later provided to an al Shabaab commander, and traveled to Mali in search of further terrorist training.
4	2011	Banol-Ramos	Yarlei	Pleaded guilty	18 U.S.C. 2339B	FARC	180	180	S.D.N.Y., 09 Cr. 498 (WHP)	William H. Pauley III	The defendants were arrested armed with a machine gun, at sea in a boat full of military supplies including explosives, after a shootout with the Panamanian National Police ("PNP"). The Firefight occurred after the PNP attempted to render aid to the boat, which had become stranded traveling to a narcotics transaction involving the sale by the FACR of approximately one ton of cocaine.
5	2011	Ibarguen-Palacio	Jorge	Pleaded guilty	18 U.S.C. 2339B	FARC	130	180	S.D.N.Y., 09 Cr. 498 (WHP)	William H. Pauley III	See above.
6	2014	Nayyar	Patrick	Convicted after trial	18 U.S.C. 2339B (two counts), 50 U.S.C. 1705(a) (two counts), 18 U.S.C. 922(g)	Hizballah	180	900	S.D.N.Y., 09 Cr.1037 (RWS)	Robert W. Sweet	Nayyar, a New York City resident, allegedly made plans with a confidential information to acquire various weapons and other military materials, including sniper rifles, missiles, vehicles, bullet proof vests, and night vision goggles, with Nayyar agreed to sell to Hizbalah through a CI. On one occasion, Nayyar allegedly gave the CI a handgun and a box of ammunition in exchange for \$1000.

7	2012	Issa	Omar	Pleaded guilty	18 U.S.C. 2339B	Al Qaeda, Al Qaeda in Iraq, Magred ("AQIM"), and the FARC	57	180	S.D.N.Y., 09 Cr. 1244 (LAP)	Loretta A. Preska	The defendants were charged in connection with their alleged agreement to transport cocaine through West and North Africa with the intent to support the drug trafficking activities of Al Qaeda, Al Qaeda in Iraq, Magred ("AQIM"), and the FARC.
8	2012	Toure	Harouna	Pleaded guilty	18 U.S.C. 2339B	Al Qaeda, Al Qaeda in Iraq, Magred ("AQIM"), and the FARC	63	180	S.D.N.Y., 09 Cr. 1244 (LAP)	Loretta A. Preska	See above.
9	2012	Abdelrahman	Idriss	Pleaded guilty	18 U.S.C. 2339B	Al Qaeda, Al Qaeda in Iraq, Magred ("AQIM"), and the FARC	57	180	S.D.N.Y., 09 Cr. 1244 (LAP)	Loretta A. Preska	The defendants were charged in connection with their alleged agreement to transport cocaine through West and North Africa with the intent to support the drug trafficking activities of Al Qaeda, Al Qaeda in Iraq, Magred ("AQIM"), and the FARC.
10	2011	Cordoba-Bermudez	Juanito	Pleaded guilty (Pimentel letter)	18 U.S.C. 2339B	FARC	180	180	S.D.N.Y., 08 Cr. 1290 (DC)	Denny Chin	The Indictment recounts multiple discussions among various co-defendants, including CORDOBA-BERMEDEZ, regarding FARC logistics, supplies and weapons, as well as the seizures by authorities of a variety of weapons and materiel in 2008. These discussions occurred in the aftermath of a February 22, 2008, attack by five FARC guerillas on a Panamanian police patrol boat, and their subsequent capture in possession of substantial FARC weaponry and material.
11	2012	Yousef	Jamal	Pleaded guilty	18 U.S.C. 2339B	FARC	144	180	S.D.N.Y. 08 Cr. 1213 (JFK)	John F. Keenan	The defendant, who had a history of trafficking in drugs, weapons, and fake travel documents, allegedly conspired to provide an arsenal of military-grade weapons to the FARC in exchange for a large shipment of cocaine.
12	2010	Alishtari	Abdul Tawala Ibn Ali	Pleaded guilty	18 U.S.C. 2339C, 18 U.S.C. 1349	Unspecified	121	300	S.D.N.Y., 07 Cr. 115(AKH)	Alvin K. Hellerstein	The defendant, a former bank underwriter and resident of Ardsley, New York, allegedly facilitated the transfer of \$152,5000, believing that the funds would be used in Afghanistan and Pakistan to help train terrorists and provide them with military equipment.
13	2009	Iqbal	Javed	Pleaded guilty	18 U.S.C. 2339B	Hizballah	69	180	S.D.N.Y., 06 Cr. 1054 (RMB)	Richard M. Berman	The defendants, residents of NY and NJ, allegedly provided satellite television services to al-Manar, a TV station operated by Hizballah.

14	2009	Elawal	Saleh	Pleaded guilty	18 U.S.C. 2339B	Hizballah	17	180	S.D.N.Y., 06 Cr. 1054 (RMB)	Richard M. Berman	See above.
15	2010	Hashmi	Syed	Pleaded guilty	18 U.S.C. 2339B	al Qaeda	180	180	S.D.N.Y., 06 Cr. 442 (LAP)	Loretta A. Preska	Hashmi, a Pakistani-born U.S. citizen who was raised in Queens, NY, allegedly helped deliver protective clothing and night vision goggles to an Al Qaeda military commander and helped buy a plane ticket to Pakistan to engage in jihad.
16	2007	Shah	Tarik Ibn Osman	Pleaded guilty	18 U.S.C. 2339B	al Qaeda	180	180	S.D.N.Y., 05 Cr. 673 (LAP)	Loretta A. Preska	The defendants allegedly conspired to provide material support to al Qaeda. Shah, a U.S. citizen and NYC resident, was a martial arts instructor who allegedly urged many of his students to prepare for violent jihad and expressed willingness to recruit others to start a homegrown cell. Brent trained with Shah and attended a Lashkar-e-Taiba training camp in Pakistan. Sabir attempted to provide medical support to wounded jihadists.
17	2007	Brent	Mahmud Farouq	Pleaded guilty	18 U.S.C. 2339B	al Qaeda	180	180	S.D.N.Y., 05 Cr. 673 (LAP)	Loretta A. Preska	See above.
18	2010	Yogarasa	Nadarasa	Pleaded guilty	18 U.S.C. 2339B (two counts)	LTTE	168	360	E.D.N.Y., 06 Cr. 615 (RJD)	Raymond J. Dearie	Defendants conspired to buy weapons for the LTTE from an FBI agent posing as an arms dealer. Yogarasa introduced Sarachandran to the arms dealer, and was present at meetings where they discussed the purchase of shoulder-fired missiles and AK-47s.
19		Thavaraja	Pratheepan	Pleaded guilty	18 U.S.C. 2339B	LTTE	108	180	E.D.N.Y., 06 Cr. 616 (RJD)	Raymond J. Dearie	Defendants allegedly raised millions of dollars to support the LTTE. Thavaraja was allegedly a principal arms and explosives agent for the LTTE. The group allegedly bribed informants posing as State Department officials in an attempt to get the LTTE taken off of the list of designated terrorist organizations.
20	2012	Kandasamy	Karunakaran	Pleaded guilty	18 U.S.C. 2339B, 18 U.S.C. 371 (conspiracy to bribe public officials)	LTTE	72	240	E.D.N.Y., 06 Cr. 616 (RJD)	Raymond J. Dearie	See above.

21	2011	Vinayagamoorthy	Murgesu	Pleaded guilty	18 U.S.C. 2339B	LTTE	63	180	E.D.N.Y., 06 Cr. 616 (RJD)	Raymond J. Dearie	See above.
22	2010	Patpanathan	Vijayshanthar	Pleaded guilty	18 U.S.C. 2339B	LTTE	67	180	E.D.N.Y., 06 Cr. 616 (RJD)	Raymond J. Dearie	See above.
23	2013	Sriskandarajah	Suresh	Pleaded guilty	18 U.S.C. 2339B	LTTE	24	180	E.D.N.Y., 06 Cr. 616 (RJD)	Raymond J. Dearie	See above.
24	2010	Socrates	Nachimuthu	Pleaded guilty	18 U.S.C. § 371 (2 counts, conspiracy to bribe public officials)	LTTE	12	120	E.D.N.Y., 06 Cr. 616 (RJD)	Raymond J. Dearie	See above.
25	2012	Mylvaganam	Ramanan	Pleaded guilty	18 U.S.C. 2339B	LTTE	72	180	E.D.N.Y., 06 Cr. 616 (RJD)	Raymond J. Dearie	See above.
26		Nur	Abdul Hameed	Pleaded guilty	18 U.S.C. 2339B	Unspecified	180	180	E.D.N.Y., 07 Cr. 543 (DLI)	Dora L. Irizarry	Defendant was allegedly a member of a conspiracy to commit a terrorist attack at John F. Kennedy International Airport in Queens, New York, by exploding fuel tanks and the fuel pipeline under the airport.
27		Al-Moayad	Mohammed Ali	Pleaded guilty	18 U.S.C. 2339B	al Qaeda, Hamas	80	180	E.D.N.Y., 03 Cr. 1322 (DLI)	Dora L. Irizarry	Defendants were accused of supplying money, recruits, weapons, and communications equipment to al Qaeda and Hamas. Mr. al-Moayad was alleged to have given al Qaeda \$20 million before the 9/11 attacks.
28		Zayed	Mohamed Mohsen	Pleaded guilty	18 U.S.C. 2339B	al Qaeda, Hamas	80	180	E.D.N.Y., 03 Cr. 1322 (DLI)	Dora L. Irizarry	See above.

29		Aref	Yassin Muhiddin	Convicted after trial	18 U.S.C. 1956; 18 U.S.C. 922 (a)(1) (2 counts); 18 U.S.C. 2339A and 18 U.S.C. 2339B (multiple counts), and 18 U.S.C. 1001	JEM	180	Life	N.D.N.Y., 04 Cr. 402 (TJM)	Thomas J. McAvoy	The indictment charged Aref and Hossain, Albany residents, with agreeing to participate in a scheme to launder money from the sale of a shoulder-fired missile to terrorist group JEM for use in an imminent terror attack in New York.
30		Hossain	Mohammed Mosharref	Convicted after trial	18 U.S.C. 1956 (1 count); 18 U.S.C. 922(a)(1) (10 counts), 18 U.S.C. 2339A (8 counts), 18 U.S.C. 2339B (8 counts), 18 U.S.C. 1546 (1 count), 18	JEM	180	Life	N.D.N.Y., 04 Cr. 402 (TJM)	Thomas J. McAvoy	See above.
31				Pleaded guilty							al Bakri and others allegedly traveled to Pakistan, and then attended an al Qaeda training camp in Afghanistan. They received firearms and tactical training, heard lectures justifying martyrdom, and attended a speech delivered by Osama bin Laden, urging attacks on the United States. At the time they were arrested in the U.S., authorities found a gun, a document justifying suicide as a form of martyrdom, and an email that made reference to a future terror operation.
32	2003	al Bakri	Mukhtar	guilty	18 USC 2339A	al Qaeda	120	180	W.D.N.Y., 02 Cr 214 (WMS)	William M. Skretny	
33	2003	Goba	Yahya	guilty	18 USC 2339A	al Qaeda	120	180	214 (WMS)	Skretny	See above.
34	2003	Alwan	Sahim	guilty	18 USC 2339A	al Qaeda	114	180	214 (WMS)	Skretny	See above.
35	2003	Galab	Faysal	guilty	18 USC 2339A	al Qaeda	84	180	214 (WMS)	Skretny	See above.
36	2003	Mosed	Shafal	guilty	18 USC 2339A	al Qaeda	96	180	214 (WMS)	Skretny	See above.
	2003	Taher	Yasein	guilty	18 USC 2339A	al Qaeda	96	180	214 (WMS)	Skretny	See above.

TABLE A-2 - Comparable al-Shabaab Sentences in All Circuits

#	Year of Sentence	Last Name	First	Outcome	Convictions	Sentence	Max	Court	Judge	Allegations
1	2015	Ibrahim	Abdinassir	Pleaded guilty	18 U.S.C. 2339B, 18 U.S.C. 1546(a) (false statement in an immigration matter)	180	480 months	W.D. Texas, 14 Cr. 99 (XR)	Xavier Rodriguez	Ibrahim admitted that from about May 18, 2010, to about Jan. 31, 2014, he knowingly conspired to provide material support and resources, specifically sending e-mails from the U.S. enlisting support for al-Shabaab and making a cash payment to a known member of al-Shabaab for the benefit of the organization. Ibrahim knew at the time that al-Shabaab was designated by the United States as a foreign terrorist organization. Ibrahim also pleaded guilty to making a false statement in an immigration matter.
2	2014	Kauser Mohammed	Gufran Ahmed	Pleaded guilty	18 U.S.C. 2339B	180	180 months	S.D. Fla, 13 Cr. 20364 (UU)	Ursula Ungaro	The charges allege that Mohammed sent a series of wire transfers to coconspirator Mohamed Hussein Said for the purpose of supporting al-Shabaab, and to an individual whom he believed was a terrorist fundraiser, recruiter, and supplier for the purpose of supporting al-Qaeda and AQI/al-Nusrah Front. In addition, Mohammed agreed to support al-Qaeda and AQI/al-Nusrah Front by recruiting individuals to fight in the conflict in Syria. Mohammed earmarked certain of his financial contributions for the purpose of buying weapons and funding attacks on United States citizens or the United Nations.
3	2014	Baxam	Craig	Pleaded guilty	18 U.S.C. 1519 (destruction of records to impede a terrorism investigation)	84	240 months	D. Md, 12 Cr. 121 (JFM)	J. Frederick Motz	The defendant admitted to traveling to Africa to try to join the terrorist group al-Shabab and trashing his home computer so federal investigators could not track him.
4	2013	Ahmed	Mohamed Ibrahim	Pleaded guilty	18 U.S.C. 371 (two counts)	111	120 months	S.D.N.Y. 10 Cr. 131 (PKC)	P. Kevin Castel	The defendant allegedly traveled from Sweden to Somalia to receive "jihad" training in weapons and explosives at an al Shabaab training camp, provided a total of 3,000 Euros to al Shabaab, purchased an AK-47 that he later provided to an al Shabaab commander, and traveled to Mali in search of further terrorist training.
5	2013	Mohamed	Omer Abdi	Pleaded guilty	18 U.S.C. 2339A	144	180 months	District of Minnesota, 09 Cr. 352 (MJD)	Michael J Davis	Mohamed allegedly helped Somali-American men travel from Minnesota to Somalia to join al-Shabaab, an Islamist group on the US government's terrorist list. Plead guilty to providing support and resources knowing that said resources were to be used to carry out a conspiracy to murder, kidnap, maim or injure persons in another country.

6	2013	Hassan	Hawo Mohammed	Convicted after trial	18 U.S.C. 2339B, 18 U.S.C. 1001 (2 counts)	120	300 months	District of Minnesota, 10 Cr. 187	Michael J Davis	Evidence presented at trial proved that the defendant provided support to al-Shabaab from September 17, 2008, through July 19, 2009. Specifically, Hassa and others raised money for the terrorist organization by soliciting funds door-to-door in Somali neighborhoods in Minneapolis, Rochester, and other cities in the U.S. as well as in Canada. Hassan also obtained funds by participating in teleconferences that featured speakers who encouraged listeners to make donations in support of al-Shabaab.
7	2013	Moalin	Basaaly	Convicted after trial	18 U.S.C. 2339A (2 counts), 18 U.S.C. 2339B (2 counts), 18 U.S.C. 1956	180	960 months	S.D. Cal, 10 Cr. 4246 (JTM)	Jeffrey T. Miller	Moalin was convicted after trial along with three co-conspirators of a conspiracy to send money from San Diego to Somalia to help al-Shabaab. Moalin received the longest sentence, according to U.S. District Judge Jeffrey T. Miller, because he attempted to not only send money to the group but also to provide a house in Mogadishu to a terrorist leader.
8	2013	Mohamud	Mohamed	Convicted after trial	U.S.C. 2339B (2 counts), 18 U.S.C. 1956	156	780 months	S.D. Cal, 10 Cr. 4246 (JTM)	Jeffrey T. Miller	See above.
9	2013	Doreh	Issa	Convicted after trial	U.S.C. 2339B (2 counts), 18 U.S.C. 1956	120	780 months	S.D. Cal, 10 Cr. 4246 (JTM)	Jeffrey T. Miller	See above.
10	2014	Mohamud	Ahmed	Convicted after trial	18 U.S.C. 2339A, 18 U.S.C. 2339B, 18 U.S.C. 1956	60	560 months	S.D. Cal, 10 Cr. 4246 (JTM)	Jeffrey T. Miller	See above. Mohamud was working as a cab driver in Anaheim, California at the time of his arrest and played the role of money collector for the group.
11	2012	Yusuf	Nima Ali	Pleaded guilty	18 U.S.C. 2339B	96	180 months	S.D. Cal., 10 Cr. 4551 (BTM)	Barry Ted Moskowitz	The defendant recruited and encouraged other Americans to engage in jihad on behalf of al-Shabaab and to "kill infidels everywhere."
12	2012	Yusuf	Mohamud	Pleaded guilty	18 U.S.C. 2339B (4 counts)	140	720 months	E.D.Mo, 10 Cr. 547 (HEA)	Henry E. Autrey	According to court documents, between February 2008 and July 2009, Yusuf conspired with others to provide money to al Shabaab. Yusuf admitted to soliciting money from inside and outside the Eastern District of Missouri and coordinating the transfer of the money to al Shabaab using fake names, telephone numbers and money transfer businesses in the U.S.
13	2012	Masri	Shaker	Pleaded guilty	18 U.S.C. 2339B	118	180 months	N.D. Ill, 10 Cr. 655 (SJC)	Sharon Johnson Coleman	In July of 2010, Masri allegedly told a government informant that he had decided to take part in a jihad in Somalia or Afghanistan and to volunteer for a suicide mission to blow up American soldiers. The informant told Masri he would help pay for his trip, provided they went together. Masri agreed. They planned a trip from Chicago to Somalia via Los Angeles and Mexico, according to court documents.

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NIMA ALI YUSUF,

Defendant.

Case No. 10cr4551BTM

San Diego, California

December 11, 2012

Sentencing

BEFORE THE HONORABLE BARRY TED MOSKOWITZ
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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7 San Diego, California - December 11, 2012

9 THE CLERK: Calling calendar matter number 2,
10 10cr4551, United States of America vs. Nima Ali Yusuf.

19:02:28

11 MR. REES: Good morning, your Honor. Charles Reese
12 on behalf of Ms. Yusuf.

13 MR. SWIFT: Good morning, your Honor. Charles
14 Swift on behalf of Ms. Yusuf.

15 MS. FEVE: Good morning, your Honor. Sabrina Feve
16 on behalf of the United States.

19:02:46

17 MR. REES: I'm going to just step out to let people
18 know to come in.

19 THE COURT: Anymore people? Is that everybody? Do
20 you have everybody in?

19:05:22

21 MR. REES: It is, your Honor.

22 THE COURT: Okay. I want to thank you for giving
23 me some extra time. I wanted to look at some cases this
24 morning, and hopefully it will be helpful to our discussion.

25 Now, she pled guilty -- why doesn't everybody have

19:05:43

1 Category VI.

2 MR. REES: Yes.

3 THE COURT: Do the parties agree that under 3A1.4
4 that this offense certainly is a felony and that it involved
5 or was intended to promote a federal crime of terrorism? 19:09:28

6 MR. REES: Correct.

7 THE COURT: And so that would be a plus 12?

8 MR. REES: Yes, your Honor.

9 THE COURT: Let me just have a second. I want to
10 look at something. And of course minus three for accepting 19:09:48
11 responsibility.

12 Can we go over exactly what the defendant did, and
13 I want the parties to focus. Perhaps they agree. The
14 government has to establish, and the parties agree that they
15 have, but I just want to make sure I understand the factual 19:10:48
16 context, that there was a conspiracy to provide material
17 support to a foreign terrorist organization.

18 And so the support was, my understanding, was in
19 two ways. One was seeking to recruit a person?

20 MS. FEVE: Well, your Honor, the conspiracy was to 19:11:11
21 provide money and personnel. There were multiple ways in
22 which the conspirators provided personnel.

23 THE COURT: Just one second. Do you want to bring
24 the jury? Okay. Just hold on.

25 (The jury in another matter entered after a break.) 19:11:24

1 THE COURT: One of the jurors' phones. Okay. They
2 place them all in the basket there. Okay. So go ahead.

3 MS. FEVE: So, your Honor, the conspiracy was to
4 provide both money and personnel. In this case the money is
5 set forth in the plea agreement, itemizing the transfers
6 during the period in question. 19:12:37

7 In terms of the personnel, Ms. Yusuf was conspiring
8 to provide both the fighters themselves by supporting them,
9 so that would be the four men featured in the plea agreement,
10 Mohamed Abdullahi Hassan, Abdisalan Hussein Ali, Cabdulaahi
11 Ahmed Faarax, and Abdiweili Yassin Isse, as well as her
12 attempt to procure and solicit yet another fighter, an
13 individual based here in San Diego who she repeatedly
14 contacted in conjunction with efforts by Faarax to try and
15 get him to go to Somalia to fight for al-Shabaab there. 19:12:49
19:13:11

16 THE COURT: Can we focus on the money. In
17 reading -- no doubt you read the defendant's papers and the
18 letter from the Imam.

19 MS. FEVE: Yes, your Honor.

20 THE COURT: The affidavit. There seems -- 19:13:26

21 MS. FEVE: Yes.

22 THE COURT: There seems to be a suggestion that she
23 was providing charitable money to the people that she knew
24 from Minneapolis and perhaps was not then providing the
25 material support to a terrorist organization, because none of 19:13:46

1 the money went directly to the organization, it went to the
2 individuals; right?

3 MS. FEVE: It went to the fighters who were there
4 fighting for that organization and whose 24/7 activities were
5 being conducted on behalf of that organization. 19:14:00

6 And perhaps the best example of the purposeful
7 nature of their being in Somalia is the case of Abdisalan
8 Hussein Ali, whose nom de guerre was Uhud and who Ms. Yusuf
9 referred to -- refers in passing in the presentence report,
10 and he has been one who is prominently featured in the New 19:14:18
11 York Times and other newspapers as having blown himself up in
12 martyrdom operation conducted on behalf of al-Shabaab for
13 which prior to blowing himself up he recorded an audio
14 recording that was posted extorting others in America, which
15 was delivered in English, to go to Somalia to wage jihad in 19:14:38
16 the name of al-Shabaab.

17 So the reason they were there was not to visit
18 family, it was not to make a new life for themselves, it was
19 to fight for al-Shabaab with the purpose of toppling the
20 transitional federal government and killing, maiming, and 19:14:53
21 harassing African peace keeping troops.

22 THE COURT: So your position, maybe the defense
23 does not dispute this, is by providing support to the
24 fighters there. They were providing support to the terrorist
25 organizations. 19:15:10

1 MS. FEVE: Yes.

2 THE COURT: They don't have to make a check payable
3 to al-Shabaab.

4 MS. FEVE: No. They could, I guess, your Honor.
5 I'm not sure what the banking situation was in Somalia at 19:15:16
6 that point, but it seems like from what we know she is
7 sending money to a war ravaged country where \$50 goes a very,
8 very long way, and she has committed sending \$50 once a month
9 to this man who goes by Uhud because he has said, "I am going
10 on a mission. I have a difficult task. I need your 19:15:37
11 support."

12 And she has said, "I am going to do this." She
13 doesn't say, "I am going to help widows or orphans or pay a
14 debt to you."

15 She says, "I am going to support you." 19:15:46

16 And throughout her conversations, which feature
17 repeated discussions of martyrdom and how he is going to
18 martyr himself and how she is jealous because she wants to
19 martyr herself.

20 The conversation keeps going back to her supporting 19:15:59
21 him going on this mission which we now know unequivocally was
22 to martyr himself in the course of killing other people.

23 THE COURT: And that was a person that -- I know
24 you quoted from the wiretaps, where there was discussion
25 about the \$50 -- that was the person who did a suicide 19:16:18

1 bombing?

2 MS. FEVE: Yes, your Honor. The individual who she
3 gave the most money to and to whom she gave the money, most
4 money, most regularly was this individual who she commonly
5 referred to as Uhud who from the newspaper and press whose 19:16:32
6 real name, as far as we know, is Abdisalan Hussein Ali. And
7 he committed suicide in a suicide bombing. That's what the
8 news media reported.

9 I cannot say the FBI has committed a forensic
10 examination and can tell you the name of the suicide bomber. 19:16:51
11 But individuals who knew Mr. Ali, who heard the recordings
12 posted on behalf of the suicide bomber, all seemed to believe
13 that he is Mr. Ali.

14 And Ms. Yusuf seems to believe it is Mr. Ali as
15 well because in her statement to Probation when she was 19:17:07
16 interviewed for the PSR she said her life "has no purpose
17 because the person I cared the most about is gone from this
18 earth," and this appeared to be a reference to Mr. Ali.

19 But Mr. Ali is not the only suicide bomber who she
20 knew of. It's not as though it came as a surprise to her 19:17:22
21 that the men she knew from Minneapolis were going to fight
22 and ultimately kill themselves as well as other people.

23 And there was also a man, actually a young man,
24 it's hard to even call him a man, known as Little Bashir who
25 in 2008 blew himself up and in the wiretaps she repeatedly 19:17:39

1 That's not required for the guidelines enhancement.
2 We look at the agency's conduct and we agree that the
3 government has -- that the facts clearly support that, and we
4 agree to it as part of our plea agreement.

5 THE COURT: Based upon the representations of both 19:23:21
6 counsel as to what's admissions in the plea agreement, the
7 court agrees that the adjusted offense level is a 35, based
8 on a 26 under 2M5.3(a), a plus 12 under 3A1.4, and a minus
9 three for accepting responsibility, and for 3A1.4 the
10 Criminal History Category is Category VI. 19:23:44

11 I think the jurors may have buzzed, so do you want
12 to answer the door.

13 (Note from jury.)

14 THE COURT: Okay. Let me just see the note. Do
15 you want to call the parties. 19:24:19

16 THE CLERK: Yes, sir.

17 THE COURT: Now let me explore something else.
18 This involved about \$1400; right?

19 MS. FEVE: It involved more than that, your Honor.
20 What is agreed to in the plea agreement is 1450. 19:24:30

21 THE COURT: Okay. Plus the issue about trying to
22 recruit the other person.

23 MS. FEVE: Yes, and she also -- she provided other
24 assistance as well. She was willing to help them get a video
25 recorder. She was going to try to help them get a laptop. 19:24:46

1 There were a series of things she was proactively
2 trying to do to be of use to further this cause that she
3 believed in.

4 THE COURT: One thing I want to explore. There is
5 no dispute that the guidelines are 180 months to 180 months
6 given the statutory maximum. 19:24:59

7 If this were a drug case we would measure the harm
8 based upon the type of drug and the quantity of drug.

9 If this were a fraud case or a money laundering
10 case we would measure the harm based upon the amount of money 19:25:16
11 involved.

12 What I would like to focus on, and no one really
13 focused on this in their papers, the statute and the
14 guidelines are open ended. They, unlike money laundering or
15 fraud or robbery or any of those offenses that involve money, 19:25:36
16 there is no chart or increase based upon different levels of
17 monetary support. And so should that be something that the
18 court should take into account?

19 So what I would like to discuss is that plus what
20 is the range of conduct that could be covered under the 19:25:57
21 guidelines here, and then how does her conduct fit within
22 that range?

23 MS. FEVE: I'll try and address your first
24 question, and if I misunderstand it please cut me off and
25 redirect the conversation, your Honor. 19:26:16

1 something on behalf of the jihadi beliefs that there will be
2 repercussions for her in the next life, if not now.

3 And then finally, I don't disagree that she has
4 done kind things to help people, and that is certainly part
5 of the person that stands before the court and that the court 21:02:35
6 needs to consider.

7 But what is striking about the final excerpt, and I
8 will finish here with the court, is the way she embraces the
9 term "terrorists," not just as it was applied to these men,
10 but as she applies it to herself. And in this she is 21:02:49
11 speaking to the friends, the sister of one of the fighters,
12 and they are talking -- they go through a long list of the
13 fighters they have known and which ones have died and which
14 ones are still there.

15 And the friend says at one point, "You weren't even 21:03:04
16 in it."

17 And Yusuf says, "No, I swear to God I was always in
18 it. I always" --

19 And her friend says, "Yeah, you were always in it,
20 but not like you are now." 21:03:15

21 And Yusuf says, "No, I was always in it because
22 nobody" -- and her friend cuts her off.

23 And she says, "Now you are just a little American
24 terrorist."

25 And Yusuf says, "No. Okay. I was, because back -- 21:03:25

1 okay. Let me tell you something. Back then they were not a
2 terrorist. They were just freedom fighters."

3 And her friend just laughs.

4 And Yusuf continues, "And nobody, you know, was
5 divided. Everyone was with it."

21:03:37

6 And her friend says, "Dude, Cali," that's her
7 nickname. Just to continue "except the Mujahidin people,"
8 which is a reference to a different clan.

9 And her friend continues, "You can say it however
10 you want. They were terrorists," and she is talking about
11 her own brother and his group.

21:03:53

12 And Yusuf says, "Well, now they are."

13 And her friend laughs and she says, "But back then,
14 but what, what, what? Just because America says they are
15 terrorist that makes them terrorist?"

21:04:09

16 And Yusuf says, "Yeah, according to America."

17 And her friend says, "Yeah, according to America."

18 And Yusuf says, "Yeah, but according to me they are
19 freedom fighter."

20 And her friend says, "Hmm. According to me they
21 are Mujahidin."

21:04:17

22 And Yusuf says, "That is just another way to put
23 it."

24 So she knew who these people were. She knew what
25 they were fighting for. She fervently believed in it. It

21:04:28

1 was absolutely her right to believe in it. It was just
2 completely out of bounds for her to send them money in
3 furtherance of it.

4 And given the consequences of what occurred, both
5 in terms of Ali blowing himself up and killing roughly a
6 dozen people in the process, and all of the other bloodshed
7 and mayhem and chaos that al-Shabaab has shown, we believe
8 this is an incredibly serious offense and that it is an
9 offense that is justly and rightly punished and sentenced
10 with a ten-year custodial sentence.

21:04:39

21:04:59

11 THE COURT: Okay. Thank you.

12 MR. REES: Your Honor, just briefly, with respect
13 to Ali and the suicide bombing, she wasn't aware of that
14 until while she was in custody. And when she learned about
15 that she was heartbroken, she was devastated. And that I
16 think becomes clear in the probation report where she talks
17 about how she never wanted him to do anything like that.

21:05:13

18 So that's not something that she was even -- even
19 believed that he would ever, ever do.

20 I think the statements that the prosecutor talks
21 about stems from her own insecurity, her own immaturity, her
22 wanting to feel like a big shot, her wanting to feel like she
23 belonged.

21:05:28

24 And even the prosecutor and probation officer
25 acknowledges this. And the prosecutor's memorandum at page

21:05:42

CERTIFICATION

I hereby certify that I am a duly appointed, qualified and acting official court reporter for the United States District Court; that the foregoing is a true and correct transcript of the proceedings had in the aforementioned cause; that said transcript is a true and correct transcription of my stenographic notes; and that the format used herein complies with the rules and requirements of the United States Judicial Conference.

Dated: January 5, 2012 at San Diego, California

Barbara Harris, Official Reporter